Department of Justice Canada

2008–2009

Departmental Performance Report

Table of Contents

Minister's Message iv

Section I – Departmental Overview 1

Raison d'être 1

Responsibilities 1

Strategic Outcomes and Program Activity Architecture 1

Section II – Analysis of Program Activities by Strategic Outcome ... 11

Strategic Outcome I: A fair, relevant and accessible justice system that reflects Canadian values 11

Strategic Outcome II: A federal government that is supported by effective and responsive legal services 23

Section III – Supplementary Information 34

Financial Highlights 34

Other Items of Interest 36

Minister's Message

I am pleased to report on the achievements of the Department of Justice for 2008–09 in meeting its strategic outcomes:

- ensuring that Canada's justice system is fair, relevant, accessible and reflects Canadian values; and
- supporting the federal government with effective and responsive legal advisory, legislative and litigation services.

As Minister of Justice and Attorney General of Canada, I deeply appreciate the support I have received over the past year from the Department of Justice, which includes developing policy initiatives aimed at reducing instances of violent crime, organized crime and gang violence, curbing the supply of and demand for illicit drugs and making the justice system more sustainable and efficient. Thanks to the professionalism and expertise of the Department's public servants, our Government has been able to continue pursuing its tackling-crime agenda, thus ensuring safer communities for Canadians.

To further improve the justice system, the Department continues to work with the provinces and territories to respond to issues involving victims of crime, access to justice, family justice and Aboriginal involvement in the administration of justice.

The Department's legal support to various federal departments and agencies over the last year has helped the government to ensure the stability of our financial system during the global economic recession, in addition to successfully representing the interests of the Crown in significant litigation cases.

On the management side, the Department is pursuing a set of initiatives in managing legal risk and law practice, measuring performance and renewing and developing its workforce, so that it can better meet the challenges of the coming years.

I invite you to read this report for further details regarding the Department's performance over the past year in strengthening and updating our justice system, and to implementing the priorities of the Government of Canada.

The Honourable Rob Nicholson, P.C., Q.C.
Minister of Justice and Attorney General of Canada

Section I –
Departmental Overview

Raison d'être

The Mission of the Department of Justice is to:

- support the Minister of Justice in working to ensure that Canada is a just and law-abiding society with an accessible, efficient and fair system of justice;
- provide high-quality legal services and counsel to the government and to client departments and agencies; and
- promote respect for rights and freedoms, the law and the Constitution.

Responsibilities

The Department of Justice is headed by the Minister of Justice and Attorney General of Canada. The responsibilities associated with the dual role of Minister of Justice and Attorney General are set out in the *Department of Justice Act* and some 49 other Acts of Parliament. The Department of Justice fulfils three distinctive roles within the Government of Canada, acting as:

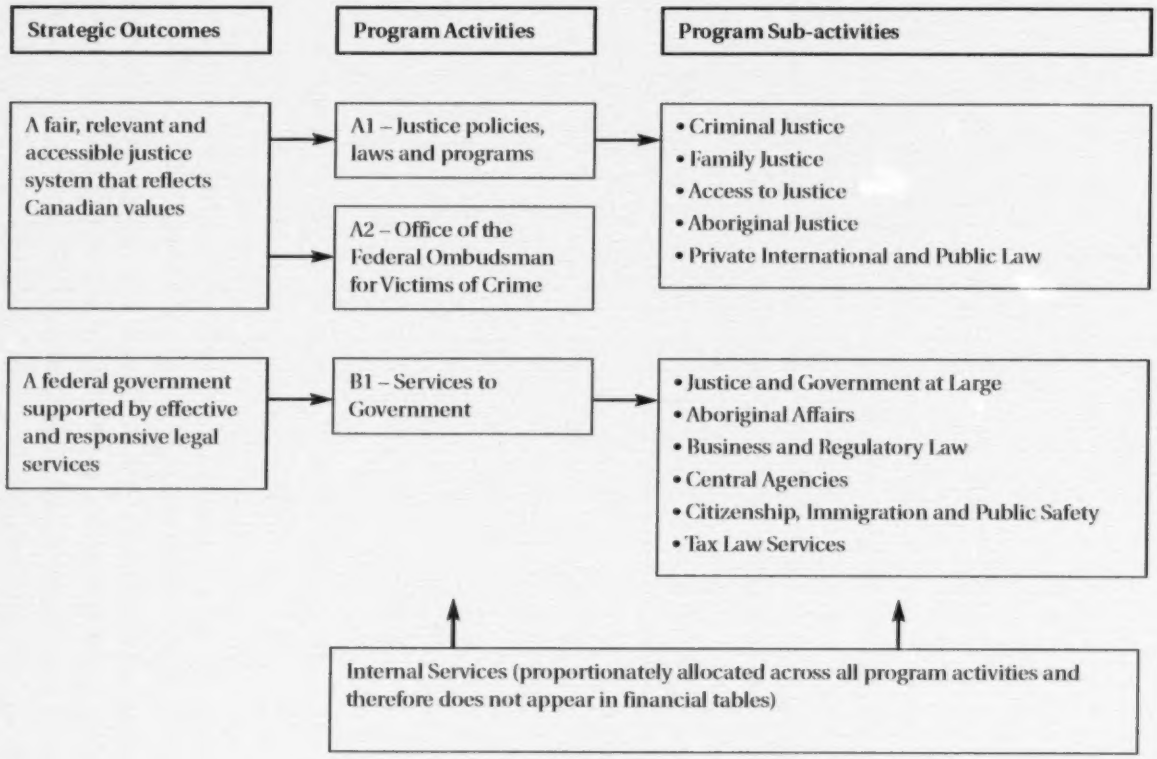
- a policy department with broad responsibilities for overseeing all matters relating to the administration of justice that fall within the federal domain;
- a provider of a range of legal advisory, litigation and legislative services to government departments and agencies; and
- a central agency responsible for supporting the Minister in advising Cabinet on all legal matters, including the legality of government initiatives and activities.

Strategic Outcomes and Program Activity Architecture

The Department's two strategic outcomes reflect the dual responsibilities of the Minister of Justice and Attorney General of Canada. While the Minister of Justice is concerned with questions of policy, particularly as these relate to his role as a steward of the Canadian justice system, the Attorney General is the chief law officer for the Crown.

The graphic presentation of the Program Activity Architecture (PAA) provided on the next page gives an overview of the activities and programs for which the Department is responsible. It reflects how strategic outcomes and program activities and sub-activities are linked to provide results for Canadians.

Program Activity Architecture


Strategic Outcomes
Program Activities
Program Sub-activities
A fair, relevant and accessible justice system that reflects Canadian values
A1 – Justice policies, laws and programs
A2 – Office of the Federal Ombudsman for Victims of Crime
• Criminal Justice
• Family Justice
• Access to Justice
• Aboriginal Justice
• Private International and Public Law
A federal government supported by effective and responsive legal services
B1 – Services to Government
• Justice and Government at Large
• Aboriginal Affairs
• Business and Regulatory Law
• Central Agencies
• Citizenship, Immigration and Public Safety
• Tax Law Services
Internal Services (proportionately allocated across all program activities and therefore does not appear in financial tables)

Summary of Performance

2008–09 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
897.0	773.2	737.1

The Department's resources have a direct impact on its ability to achieve strategic outcomes and to deliver the expected results. At the outset of the 2008–09 fiscal year, the Department's planned spending was $897M. Through Main and Supplementary Estimates, the Department was allocated $773.2M in spending authorities. As reported in the Public Accounts, actual departmental spending was $737.1M.[1]

2008–09 Human Resources (FTEs)

Planned	Actual	Difference
4,306	4,420	114

The Department's ability to achieve its mission and mandate is directly tied to the professionalism, creativity, knowledge, expertise, and dedication of its employees. During 2008–09, the Department employed 4,420 full-time equivalents (FTEs). Roughly one half of departmental staff are lawyers. The difference between the planned and actual number of FTEs was due to an increase in legal services provided to clients.[2]

[1] The planned spending of $897 million as reported in the 2008-09 RPP erroneously included estimated client recoveries of $178.0 million that the Department was authorized to collect from client departments under the Net Voting Authority granted by the Treasury Board. These amounts should not have been included in the Department's planned spending identified in the RPP as they are already portrayed in the estimates and actual expenditures of client departments. In total, client recoveries amounted to $200.5 million. In calculating the actual expenditures of $737.1 million as reported in the Public Accounts, the cost recoveries from client departments were netted out (i.e., deducted).

[2] The associated costs of the additional FTEs were recovered from clients through the Net Voting Regime.

Performance Summary

Strategic Outcome I: Fair, relevant and accessible justice system that reflects Canadian values	
Performance Indicator	**Performance Summary**
Public Confidence[3] • Adult criminal justice system • Youth criminal justice system	 70% 59%
Canada's international ranking on whether or not "justice" is "fairly administered"[4]	10th (of 55 countries)
Number of Bills tabled in Parliament	6

Summary of Achievements

The Department of Justice:

- supported the Minister in implementing the comprehensive *Tackling Violent Crime Act*, targeting dangerous offenders, impaired drivers, adult sexual predators and those who commit serious gun crimes;
- developed new offences for trafficking in property obtained by crime, specifically targeting property and auto theft, which finance organized crime and gang violence. These offences support the tackling-crime agenda;
- led implementation of the National Anti-Drug Strategy to curb the supply and demand for illicit drugs;[5]
- consulted widely with provinces, territories and stakeholders to identify issues related to the *Youth Criminal Justice Act*;
- developed strategies and projects in concert with other G8 members and the United Nations to respond to crime, including a framework on economic fraud and identity-related crime and a project to enhance Internet tracing abilities to be able to better address criminal activities on the Internet. This range of collaborative work will help respond more effectively to transnational organized crime, identify theft, cybercrime and terrorism;
- improved access to the criminal justice system for victims of crime by providing $2M of funding to provinces and territories to help meet the needs of underserved victims of crime and to implement victims legislation; and
- intercepted $140.9M through its Maintenance Enforcement Programs, supported by Family Law Assistance Services, and provided these funds to Canadian families in need. This represents a 17% increase over funds intercepted the previous year.

Program Activity	2007–08 Actual Spending	2008–09				Alignment to Government of Canada Outcomes
		Main Estimates	Planned Spending	Total Authorities	Actual Spending[6]	
A1. Justice policies, laws and programs	408.3	415.2	423.9	447.8	423.6	Safe and secure communities
A2. Office of the Federal Ombudsman for Victims of Crime	0.7	1.5	1.5	1.6	1.4	Safe and secure communities
Total	409.0	416.7	425.4	449.4	425.0	

[3] Source: Department of Justice. Public confidence in the Canadian criminal justice system is measured via the National Justice Survey. In 2008, the National Justice Survey's data suggested that 70% of Canadians have a high or moderate confidence level in the adult criminal justice system while 59% of Canadians have a high or moderate confidence level in the youth criminal justice system.

[4] Source: International Institute for Management Development, World Competitiveness Survey. The World Competitiveness Survey rated all countries on the question of whether "justice is fairly administered." In the past five years, Canada's rank has fluctuated between 6th and 14th among a total of 55 countries. The latest ranking (in 2008) was 10th.

[5] Implementation of National Anti-Drug Strategy is done in partnership with Health Canada, Public Safety Canada, Public Prosecution Service of Canada, Royal Canadian Mounted Police, Canada Border Services Agency, Correctional Service of Canada, Department of Foreign Affairs and International Trade, Public Health Agency of Canada, Public Works and Government Services Canada and Canada Revenue Agency

[6] Actual expenditures include amounts for employee benefits plans (approximately 17% of total salary costs).

Strategic Outcome II: Federal government supported by effective and responsive legal services			
Performance Indicator	**Performance Summary**		
Client feedback on delivery of legal services[7], scale of 10	Advisory services	Litigation services	Legislative services
Accessibility / responsiveness	8.7	8.6	8.6
Timeliness	7.9	8.3	7.8
Usefulness	8.1	8.2	8.0

Summary of Achievements

- Survey results demonstrate that the Department provided timely, useful and responsive legal services that met clients' needs and expectations.
- The Department provided legal policy advice to support client departments responsible for delivering on Speech from the Throne Commitments including: implementing Canada's Economic Action Plan; tackling climate change; contributing to global security; building stronger institutions; and making government more effective.
- To better respond to the economic crisis, the Department retained expert senior advisors from outside government to bolster capacity to address complex commercial law and financial sector issues.
- The Department supported client departments in delivering on the Government's comprehensive legislative agenda.
- The Department represented the Crown's interests in litigation involving billions of dollars in potential liabilities.
- The Supreme Court of Canada rendered 70 judgments on appeal for the 2008–2009 fiscal year. Department of Justice counsel represented the Government in 19 of these cases.

Program Activity	2007–08 Actual Spending	2008–09				Alignment to Government of Canada Outcomes
		Main Estimates	Planned Spending	Total Authorities	Actual Spending[8]	
B1. Services to government	277.2	279.6	471.6	323.8	312.1	Provision of government services
Total	277.2	279.6	471.6	323.8	312.1	

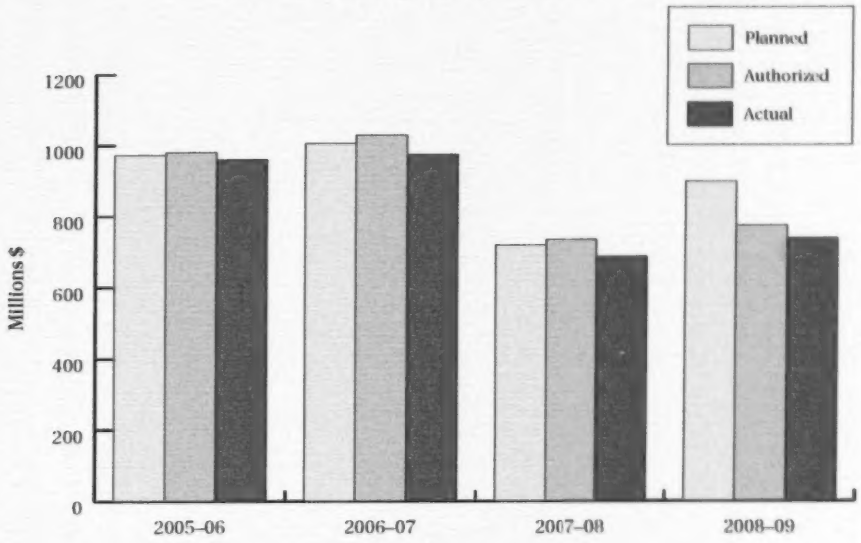
[7] Source: Department of Justice, http://canada.justice.gc.ca/eng/dept-min/pub/dpr-rr/index.html. Over the past three years, the Department has administered a comprehensive client feedback survey across 37 federal departments and agencies. In total, 6,482 public servants at the EX minus two through Deputy Head levels have responded. The survey uses a 10 point scale to obtain client feedback on the accessibility/responsiveness, timeliness and usefulness of legal services, with 8.0 representing a very positive opinion of the quality of legal service delivery.

[8] Actual expenditures include amounts for employee benefits plans (approximately 17% of total salary costs).

Expenditure Profile

As seen in the chart below, the Department had a very slight year-over-year increase in spending from 2005–06 to 2006–07. The sharp decline in year-over-year spending in 2007–08 reflects the $102 million reduction in the Departmental budget that was used to create the independent Office of the Director of Public Prosecution (ODPP) on December 12th 2006. The remainder of the reduction reflects the introduction of the net vote funding regime in which a portion of the total cost for the delivery of legal services across government is paid directly by the client departments receiving those services. As a result, rather than the funding being portrayed in the authorities and expenditures of the Department of Justice, they are portrayed in the authorities and expenditures of the client departments from which costs are recovered through vote netting authorities.[9]

Department of Justice Spending Trend



In 2008–09, the Department's year-over-year spending increased by $51M. This increase was used to support the implementation of programs to promote access to justice system in both official languages, provide legal aid for those facing charges under the *Public Safety and Anti-Terrorism Act* and to support activities under the National Anti-drug Strategy. Changes in government priorities and in the economic environment resulted in an increase in legal services within several areas such as: the safety and security of Canadians, Aboriginal communities and infrastructure investments. Fiscal year 2008–2009 also saw the ratification of multiple collective agreements resulting in a direct increase in Department's salary expenditures.

[9] In total, the net vote revenues recovered from client department in 2007–08 were $182 million and in 2008–09 they were $200.5 million.

Voted and Statutory Items ($ millions)					
Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2006–07 Actual Spending	2007–08 Actual Spending	2008–09 Main Estimates	2008–09 Actual Spending
1	Operating expenditures	546.4	268.4	265.4	299.8
5	Grants and contributions	355.0	362.3	367.5	374.4
(S)	Contributions to employee benefit plans	72.7	55.4	63.3	62.8
(S)	Minister of Justice—Salary and motor car allowance	0.1	0.1	0.1	0.1
	Total	974.2	686.2	696.3	737.1

Note 1: Actual spending differs from amount reported in financial statements as net cost of operations ($765.9 M) as a result of different reporting requirements.

Sources: Main Estimates manuscript 2008-09; RPP tables 1 and 5 p.33 and 35 for planned spending, and PA Plate A; PA plate A for authorities and actual spending

Risk Analysis

There are three main factors that influence the Department's operating environment and in turn can affect the delivery of justice policies, laws and programs. First is the increasingly complex and interrelated nature of the issues that Canadians look to the justice system to address. Second are the increasing cost pressures on the justice system. Third is the multi-tiered nature of the justice system, where all parts are interconnected but some may be beyond the control of any one part to influence in isolation.

In addition, there are three key risks that can significantly affect the Department's capacity to continue to deliver high-quality legal services to government. The first revolves around the Department's ability to continue to retain and recruit the best and the brightest legal professionals in the face of competitive pressures from other public and private sector organizations. To mitigate the potential negative impacts, we are developing initiatives to realign the Department's work force in light of the significant demographic shifts in Canada, including the aging of the work force and the increasingly diverse population.

Second is the Department's ability to continue to adapt effectively to the rapidly evolving nature and complexity of the substantive issues and priorities of the government and the associated need for legal services. To address this risk, Justice works closely with client departments to identify legal risks and to jointly develop mitigation strategies. In addition, the Department is adjusting its legal practitioner model to address the changing nature of its work.

The third set concerns the Department's ability to address the rapid changes in law practice management – particularly the sheer growth in the volume of rapidly available information that is crucial to the effective management of the government's law practice. In this regard, the Department has focused on developing and enhancing tools and systems to support effective knowledge management, legal risk management, and quality assurance.

To mitigate the associated risks, and recognizing that these factors are beyond the capacity of the Department alone to address directly, Justice works with others, including law enforcement agencies, the judiciary, provincial governments, and non-governmental and community-based organizations to develop innovative ideas about how to improve access to justice.

Management Priorities

Priority/Performance Highlights	Type	Status	Linkages to Strategic Outcomes
Public Service Renewal[10] The Department has undertaken many initiatives in support of Public Services renewal, notably: • *Recruitment:* Workforce renewal through the launch of the National Outreach and Recruitment Strategy for legal stream professionals, a new visual identifier for branding, various staffing strategies, strong focus on post-secondary recruitment outreach, and leveraging technology to streamline HR business processes (e.g. HR Fast Track) • *Management Accountability and Capacity:* Enhancement of management development through training on responsibilities and accountabilities, including labour relations training in preparation for managing in a unionized work environment, and development of learning roadmaps for managers. • *Leadership Development:* Enhancement of leadership development through the completion and graduation of the first cohort from the Justice Leaders of Tomorrow Program pilot, and the launch of the new National Mentoring Program • *Succession Planning:* Implementation of new talent management processes for senior management, as well as a specific process for Employment Equity designated group members	Ongoing	Met	• Fair, relevant and accessible justice system • Effective and responsive legal services
Employment Equity and Diversity • The Department improved the overall representation of EE designated group members, with all four groups at or exceeding workforce availability: women (68.2%), visible minorities (13.8%), Aboriginal persons (3.7%) and persons with disabilities (6%). • Continued progress to improve representation across occupational groups and levels. • Three year diversity awareness training roll-out to all employees commencing with managers in 2008–09, followed by all employees in the remaining two years.	Ongoing	Met	• Fair, relevant and accessible justice system • Effective and responsive legal services
Performance and Reporting • Continued progress in building tools and capacity for integrated planning, ongoing monitoring of performance and reporting on results. • Completed the corporate risk profile as a preliminary step in enhancing integration of risk analyses in business planning structure. • Reviewed and enhanced processes and practices for ensuring the Department is able to meet its responsibilities under the *Access to Information Act* to ensure accessibility of information to the public.	Ongoing	Partially Met	• Fair, relevant and accessible justice system • Effective and responsive legal services

[10] For more information on the Clerk of the Privy Council's 2008–09 Renewal Action Plan, please consult the following Webpage: http://www.pco-bcp.gc.ca/docs/clerk-greffier/plan/2008-09/docs/plan-eng.pdf

Priority/Performance Highlights	Type	Status	Linkages to Strategic Outcomes
Law Practice Management • Developed standardized templates for Memoranda of Understanding with client departments for provision of legal services. • Developed a core set of common service standards for delivery of legal services. • Initiated the Legal Knowledge Management Strategy. • Developed an Action Plan to respond to an internal evaluation of the Legal Risk Management program. • Initiated early development phases for the identification of needed enhancements for the next generation of tools to support law practice.	Ongoing	Met	• Effective and responsive legal services
Sustainable Development • Held the second Sustainable Development Conference, Justice for the Future: Department of Justice's Sustainable Development Strategy • Creation of "Green Teams" in offices across the country	Ongoing	Partially Met	• Fair, relevant and accessible justice system

Lessons Learned

Public Service Renewal

Over the past two years the Department has made strides with the Public Service Renewal agenda. However, recent activities underlined the importance of senior management engagement in providing vision, active leadership and demonstrating commitment to the renewal of the Department. For example, active engagement and accountability has led to successes in developing and launching a national mentoring program, and promoting the Department at various recruitment events as well as opening dialogues with new graduates from law programs across the country, in support of renewing our workforce.

Employment Equity and Diversity

The Department is committed to maintaining a workforce representative of Canada's diversity. During 2008–09, the Department launched a self-identification campaign in order to ensure that we have an accurate portrait of our current work force and to assist in developing concrete goals and targets. As follow-up, the Department developed a model of shared and individual accountability that cascades throughout the organization to raise awareness of and make concrete progress in meeting our employment equity objectives and to ensure a workplace supportive of diversity.

Performance Measurement and Access to Information

In response to criticisms from the Office of the Information Commissioner, the Department re-examined the processes and tools that support timely public access to departmental information under the *Access to Information Act (ATIP)*. As a result, the Deputy Minister authorized the investment of resources to modernize equipment, enhanced the staff complement, and streamlined internal ATIP processes. In 2008 the Department of Justice achieved the top score across government, an "A", with a five-star rating from the Office of the Information Commissioner of Canada, and was identified as a model of best practices for other government departments.

Strategic Review

Further to these management priorities and during the course of fiscal year 2008–09, the Department underwent a Treasury Board directed Strategic Review that assessed all direct program spending and operating costs along the following five core dimensions:

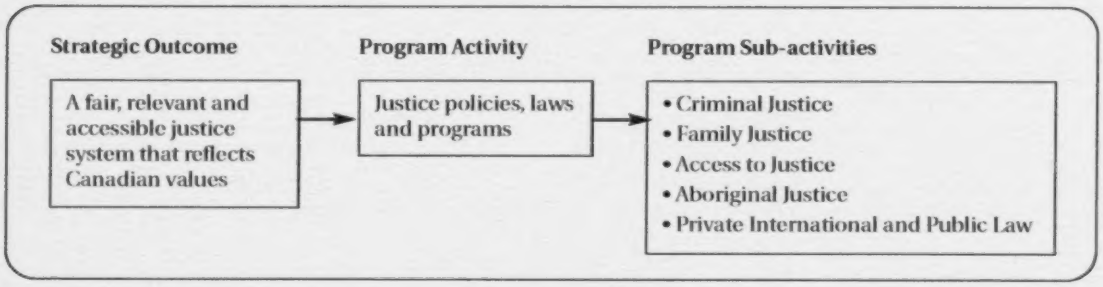
- Linkages to Government Priorities
- Extent to which activities represent core federal roles
- Responsiveness to Canadians
- Effectiveness and efficiency
- Management effectiveness

Through this exercise, the Department identified opportunities to realize efficiencies and productivity enhancements in the delivery of legal services across government of $12.5 million annually once fully implemented in 2011–12. As a first step in realizing such efficiencies and enhancements, the Department will tailor its current mix of senior, middle level and junior counsel dedicated to the delivery of legal advisory, litigation and legislative services across government. In particular, the proportion of junior counsel will be increased with a view to ensuring that work is appropriately assigned to counsel with the requisite skills and experience.

The changes are intended to support the Department's longer-term agenda through which other avenues for realizing efficiencies and productivity enhancements will be explored.

Section II – Analysis of Program Activities by Strategic Outcome

Strategic Outcome I: A fair, relevant and accessible justice system that reflects Canadian values


Strategic Outcome
A fair, relevant and accessible justice system that reflects Canadian values
Program Activity
Justice policies, laws and programs
Program Sub-activities
• Criminal Justice
• Family Justice
• Access to Justice
• Aboriginal Justice
• Private International and Public Law

Attaining a fair, relevant and accessible justice system that reflects Canadian values is a responsibility that does not lie with the Department of Justice alone. Achieving this strategic outcome involves a broad range of players, including all three branches of the federal government – Parliament, the judiciary, and a number of federal departments and agencies; our partners in the provincial, territorial and municipal levels of government; a broad range of non-governmental organizations and stakeholders; and, ultimately, Canadians across the country.

The Department plays a major part in this by carrying out its fundamental role in establishing, maintaining and evolving the national legal framework. It also exercises a leadership role in consulting and collaborating with our federal, provincial, territorial, municipal and non-governmental partners to identify and address issues affecting the fairness, accessibility and relevance of the Canadian justice system.

This Strategic Outcome is supported by two program activities: Justice Policies, Laws and Programs and the Office of the Federal Ombudsman for Victims of Crime.

Program Activity A1: Justice Policies, Laws and Programs

2008–09 Financial Resources ($ millions)			2008–09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
423.9	447.8	423.6	396	358	-38

Under Canada's federal system, the administration of justice is an area of shared jurisdiction between the federal government and the provinces. The Department fulfils its constitutional responsibility to ensure a bilingual and bijural national legal framework principally within the following domains: criminal justice (including youth criminal justice); family justice; access to justice; Aboriginal justice; and private international and public law.

Expected Result: Maintain a sustainable national justice system

Performance Indicators	Performance Summary
Crime Trends[11]	• The police-reported crime rate dropped 5% in 2008 to its lowest level in 30 years, at 6,588 incidents per 100,000 population. • The newly developed Crime Severity Index, which measures changes in severity of crime from year to year also dropped 5%, from 95.2 in 2007 to 90.0 in 2008. The drop in the Crime Severity Index was driven by decreases in 7 high volume offences which account for about 80% of the volume of all reported crime. • While Statistics Canada's latest release on police-reported crime continued to show decreases in overall crime rates, this trend is not consistent everywhere. For example, Gatineau (+18%), Abbotsford–Mission (+16%) and Windsor (+15%) all experienced significant increases. • The highest crime indexes for 2008 were in the west: Regina (163), Abbotsford–Mission (143), Saskatoon (138), Kelowna (126), Winnipeg (124), Edmonton (122) and Vancouver (119) were all above the national average.
Trends in per capita spending by all levels of government in Canada on the justice system[12]	• The estimated total expenditure on the justice system in 2007–08 was $16.8 billion for an estimated per capita expenditure (population 33,023,376) on justice of $508 per Canadian. Adjusted for inflation, per capita justice system expenditures have increased by 14.4% (from $444 to $508), or 2.06% per year, since 2000–01.
Trends in lag time from charges to court resolution[13]	• The time elapsed for a criminal court case from the initial court appearance to the final appearance when the outcome is delivered has increased by 31% from 175 days in 2000–01 to 238 days in 2006–07. • The average number of appearances for each case has also increased from 5 in 2000–01 to 9.6 in 2006–07, representing a 92% increase over five years. • At the same time, the total number of cases before adult criminal courts decreased 1.24% (from 357,712 to 353,279) between 2000–01 and 2006–07.

[11] Source: Uniform Crime Reporting Survey, Statistics Canada, 2008

[12] Sources: Statistics Canada, Police expenditures 2007 CANSIM2, Prosecution costs 2002–03, Prosecutions Personnel and Expenditure Survey, court costs 2002–03 Courts Personnel and Expenditures Survey, Legal aid costs: 2007 Table 258–0002 CANSIM2, Adult correction costs 2007–08, Youth correction costs: estimated based on the information for youth correction expenditure between 1994-95 and 1998-99, Justice Spending in Canada 2000–01, Population 2007–08.

[13] Source: Adult Criminal Court Survey, 2000–01 and 2006–07 Statistics Canada. NB. The completeness of the data varies over time. In 2000–01 the data included 10 jurisdictions (excluding Manitoba, Northwest Territories and Nunavut.) In 2006–07 the data included all jurisdictions (98% of all criminal courts).

Benefits for Canadians

The Department of Justice focused significant effort in 2008–09 to supporting the whole-of-government framework, especially in the area of assuring a safe and secure Canada. By preparing for tabling in Parliament the comprehensive *Tackling Violent Crime Act*, which targets dangerous offenders, impaired drivers, adult sexual predators and those who commit serious gun crimes, the Department has helped to ensure safer communities for Canadians. Furthermore, the Department of Justice continued to support the government's tackling-crime agenda by proposing amendments aimed at reducing gang violence and the activities that finance organized crime.

The Department of Justice is also working closely with federal, provincial, territorial and non-governmental partners on the ongoing National Anti-Drug Strategy. The Strategy aims to contribute to the development of safer and healthier communities through coordinated efforts to prevent drug use, treat drug dependency, and reduce the production and distribution of illicit drugs.

As well, in recognition of the federal government's shared interest in a sustainable justice system, the Department provided significant ongoing funding in support of federal policy objectives to provinces and territories for the delivery of programs aimed at the day-to-day administration of justice. Of the $423.6M devoted to Justice Laws, Policies and Programs, $374.4M (or 88%) was provided through transfer payments to a wide range of governmental and non-governmental organizations for programming such as legal aid, youth justice services, Aboriginal courtworkers and services to victims of crime.

Lessons Learned

Strategic Review Exercise

During the 2008–09 Strategic Review exercise, the Department identified gaps in performance measurement and reporting capacity for non-initiative-based programs (e.g. the Criminal Justice Program). To address these, the Department is developing a comprehensive performance measurement framework for the policy function to ensure that high-quality performance information is available. As a result, better performance information will be available for the next round of strategic review expected in 2012–13, as well as responding to the new Treasury Board Secretariat Evaluation Policy requirements for full coverage of direct program spending.

Serving Official Language Minority Communities

Through evaluation, research and discussions with official language minority communities, the Family, Children and Youth Section identified a gap in training and information for these communities in family law. The Section addressed this gap through various activities, including helping to organize a national family law symposium in French and by actively encouraging stakeholders from across the country to provide public legal education information products in both official languages. These innovative activities to promote access to justice in both official languages initiative are a model which the Department will build on in the future to ensure that we are meeting the needs of official language minority communities across Canada. For information on access to justice in both official languages, please consult: http://canada.justice.gc.ca/eng/pi/franc/index.html.

Detailed Performance Analysis by Sub-Activity

Criminal Justice

Canadians rely on the justice system to ensure a safe, secure society. The Department strives to ensure a fair, relevant and accessible justice system for Canadians by understanding and evaluating issues and evidence and by developing options for criminal law reform. Over the reporting period, the Department focused on drugs, youth criminal justice, property crime, violent crimes and support to victims of crime.

Drugs

The Department's efforts were centred around the implementation of the National Anti-Drug Strategy, with a clear focus on illicit drugs and a particular emphasis on youth. The Strategy aims to contribute to safer and healthier communities through coordinated efforts to prevent use, treat dependency and reduce production and distribution of illicit drugs. It encompasses three action plans (prevention, treatment and enforcement) and is supported by a number of federal departments. For additional information, please consult the following Web site: http://www.nationalantidrugstrategy.gc.ca.

Expected Outcome: Coordinated federal response to concerns around illicit drug prevention, treatment and enforcement	
Performance Indicators	**Performance Highlights**
Effective leadership in implementation of the National Anti-Drug Strategy	• Collaborated with partner departments to develop performance management strategies and produced the first annual report on the National Anti-Drug Strategy. • Supported the Minister in the development of law reforms to address serious drug crimes by introducing *An Act to amend the Controlled Drugs and Substances Act* and to make consequential amendments to other Acts, which proposes to provide minimum penalties for serious drug offences, increase the maximum penalty for cannabis production, and reschedule certain substances from Schedule III of the *Act* to Schedule I. • Oversaw National Anti-Drug Strategy involvement in the new global Political Declaration and Action Plan adopted at the United Nations Committee on Narcotic Drugs meetings in Vienna in March 2009. With strong Canadian support, 130 other governments have mapped out the future of drug control policy in a way that is consistent with Canada's National Anti-Drug Strategy.
Expected Outcome: Reduced drug substances relapse among drug treatment court clients	
Performance Indicators	**Performance Highlights**
Relapse recidivism rates among drug treatment court clients	• Enhancements to the Drug Treatment Court Information System were initiated to better collect drug substance relapse data. Results are inconclusive at this time given incomplete pilot site data. A recidivism study is also underway.

Youth Criminal Justice

The youth justice system applies criminal and correctional law to youth between 12 and 18 years of age at the time of the alleged offence to hold them accountable for their crimes through processes and proportionate penalties adjusted for the age of the youth and that promote rehabilitation. As part of its mandate, the Department of Justice implements policies, programs, and laws, and develops options for policy, program and legislative reform to achieve a fairer and more effective system that responds to emerging youth criminal justice issues. For additional information, please consult the following Website: http://canada.justice.gc.ca/eng/pi/yj-jj/.

Expected Outcome: A youth justice system that responds to emerging issues and encourages innovation	
Performance Indicators	**Performance Highlights**
Issues and priorities identified to respond to challenges in the youth justice system	• Completed 13 Minister-led *Youth Criminal Justice Act* roundtable consultations across Canada, which provided input and advice on current and emerging youth justice system issues and priorities. • Undertook consultations on youth with cognitive impairment and mental health issues in the justice system including a meeting of experts on mental health issues in the justice system and consultations on Fetal Alcohol Spectrum Disorder and the youth justice system with a view to developing information modules for justice professionals.
Expected Outcome: A sustainable youth justice system that is capable of innovation and supporting federal youth justice priorities	
Performance Indicators	**Performance Highlights**
Federal contribution as a percentage of total expenditures of all levels of government on youth justice	• The overall federal share of eligible youth justice expenditures for 2008–09 was approximately 25%. The federal share varies from about 15% to 45% of eligible expenditures, depending on the jurisdiction. • The Department provided $1.84 million of funding in support of 22 innovative projects (18 ongoing) to promote the making of "smart choices" through community-based educational, cultural, sporting and vocational opportunities targeting youth involved in gun, gang and drug activities. • In 2008–09 the Department provided $549,429 in funding for 11 innovative projects to enhance the range of treatment services and programs targeting young persons in conflict with the law who have illicit substance abuse issues.
Incidence of provincial/territorial delivery of high federal priority services for youth offenders – rehabilitation, re-integration, intensive support and supervision, attendance programs	• All jurisdictions provide a range of high priority services. • The Department provided $800,772 in funding for 18 innovative youth justice projects with a focus on cities and community partnerships, innovation programming and public legal education and information. These projects target interventions at various points in the youth justice system for successful rehabilitation and reintegration of young offenders back into their communities.
Expected Outcome: Jurisdictions have capacity to implement sentencing options that provide specialized treatment programs in the administration of appropriate sentencing for serious violent youth offenders	
Performance Indicators	**Performance Highlights**
Orders issued for specialized treatment	• As of March 31st 2009, 50 Intensive Rehabilitative Custody and Supervision orders have been issued by the courts since 2003, including 13 orders issued during 2008–09. Federal funding for these cases totalled $3.2 million in 2008–09. • Additional federal funding totalling $260,000 was also approved during 2008–09 for specialized treatment of an additional six cases of serious violent youth suffering from mental health problems.
Cases receiving specialized treatment	• As of March 31, 2009, there were 40 individuals receiving specialized treatment. Of the 40 individuals, 34 received Intensive Rehabilitative Custody and Supervision (IRCS) orders and 6 received other types of specialized treatment orders.

Property and Violent Crime

The Department continued to pursue legislative changes to address identity theft through changes to the *Criminal Code* that allow police to intervene at an earlier stage of criminal operations, before identity fraud or other identity-related crimes are attempted or committed. The Department also pursued new measures to address auto theft. Criminal Code amendments were also introduced in Parliament to address violence associated with organized crime and gangs. For additional information, please consult the following Website: http://www.justice.gc.ca/eng/news-nouv/nr-cp/2009/doc_32360.html.

Expected Outcome: Criminal law is reformed to respond to concerns around property crime	
Performance Indicators	**Performance Highlights**
Amendments to the *Criminal Code* are advanced to address property crime issues	• Introduced into Parliament *An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime)*, which proposed creating a separate offence of theft of a motor vehicle; establishing a new offence for altering, destroying or removing a vehicle identification number; making it an offence to traffic in property obtained by crime; and making the possession of such property for the purpose of trafficking also an offence. • During 2008–09 the Department developed options and supported the progress of significant law reforms to address identity theft. These include *An Act to amend the Criminal Code (Identity theft and related misconduct)*, which proposes to create three new offences with five-year maximum sentences: obtaining or possessing identity information with intent to use it to commit certain crimes; trafficking in identity information with knowledge of or recklessness as to its intended use in the commission of certain crime; and unlawfully possessing and trafficking in government-issued identity documents.
Expected Outcome: Criminal law is reformed to respond to concerns around violent crime	
Performance Indicators	**Performance Highlights**
Tackling Violent Crime legislation proclaimed in force	• Worked closely with provinces and territories to ensure the effective implementation of the comprehensive *Tackling Violent Crime Act*, which was proclaimed into force in two stages on May 1, 2008 and July 2, 2008. The Act targets dangerous offenders, impaired drivers, adult sexual predators and those who commit serious gun crimes. • In February 2009, the Minister introduced in Parliament *An Act to amend the Criminal Code (organized crime and protection of justice system participants)* to address violence associated with organized crime and gangs. The amendments propose to: make murders connected to organized crime activity automatically first-degree; create a new offence to address drive-by and other reckless shootings; and create two new offences for assaults against a peace or public officer. • The Minister has introduced into Parliament *An Act to amend the Criminal Code (investigative hearing and recognizance with conditions).* • An *Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments)* received Royal Assent in May 2008. The Act included amendments to the *Criminal Code* to strengthen sentencing measures, to enhance the efficiency of criminal procedure and to clarify court-related language rights provisions. • To clarify sentencing practices, the Minister of Justice introduced in Parliament *An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody)*, known as the *Truth in Sentencing Act*, which proposes to strictly limit the amount of credit that may be granted for time served in custody prior to sentencing.

Victims of Crime

The Department of Justice coordinates the federal Victims of Crime Strategy, including all relevant federal legislation and programs within the Justice mandate.[14] Working with the provinces and territories, the Department develops policies and projects aimed at enhancing the role of the victim in the criminal justice system and achieving a better balance between the rights of victims and offenders. For additional information, please consult the following backgrounder on *Tackling Violent Crime*: http://www.justice.gc.ca/eng/news-nouv/nr-cp/2008/doc_32273.html

Expected Outcome: The experience of victims in the justice system is improved	
Performance Indicators	**Performance Highlights**
Perceptions of victims of crime Results of victims' feedback survey on their experience in the justice system	• Overall, 91% of Victims Fund recipients were satisfied/very satisfied with the financial assistance they received to attend National Parole Board Hearings. Many commented on the need for victims to be present at NPB hearings, especially as part of an overall "healing process." The funding also allowed more victims to participate in this aspect of the justice system.
Number of registered victims receiving financial support to attend National Parole Board hearings	• The Victims Fund provided $249,310 in funding for 303 victims and 81 support persons to attend National Parole Board hearings. • A mid-term evaluation of the Federal Victims Strategy completed in 2008 found that the financial assistance provided to victims or their family members has reduced the financial hardship of attending early eligibility (homicide) parole hearings and federal parole hearings.
Number and nature of projects and activities supported that address needs of victims of crime	• Provided $200,323 in direct funding for 13 Canadians victimized abroad. • Provided $1,112,168 in grants and contributions funding to a wide range of stakeholders for 96 projects, including training events, program evaluations, research and networking activities. • Provided $1,139,150 in contribution funding to 11 provinces and territories to help meet the needs of underserved victims of crime and/or to help support victims in attending sentencing hearings and in submitting their Victim Impact Statements. • Led the third annual "National Victims of Crime Awareness Week" and provided $391,349 in funding to support 51 organizations and communities across Canada to organize and host events in recognition of victims of crime. • Launched the first *Victims of Crime Research Digest*, No. 1 (April 2008) (http://www.justice.gc.ca/eng/pi/rs/rd-rr.html). • A mid-term evaluation of the Federal Victims Strategy completed in 2008 found that the Victims Fund continues to be considered an effective vehicle to contribute to the improvement of the experience of victims of crime in the criminal justice system and has helped to increase the willingness of victims/witnesses to participate in the criminal justice system by ensuring more support and accommodations.
Perceptions of stakeholders (criminal justice professionals, victims services)	• Perceptions of stakeholders about the role of victims in the criminal justice system and changes in awareness of the victim-related provisions in the Code are being collected and will be reported on more fully in the Federal Victims Strategy summative evaluation in 2010.

[14] http://www.justice.gc.ca/eng/pi/eval/rep-rap/08/fvs-vic/p4.html

Expected Outcome: The experience of victims in the justice system is improved *(continued)*	
Performance Indicators	**Performance Highlights**
Criminal Code provisions intended to benefit victims are implemented	• Provided $815,391 in contribution funding to provinces and territories to support implementation of legislation to benefit victims or to advance the Canadian Statement of Basic Principles of Justice for Victims of Crime. • Provided $223,155 in financial assistance to provinces and territories to implement victim-related *Criminal Code* provisions in 2008–09. • A mid-term evaluation of the Federal Victims Strategy completed in 2008 found that in general, *Criminal Code* provisions have been put into place as intended and are considered to be a relevant and effective way of providing a concrete, meaningful role for victims in the criminal justice system.

Family Justice

The Department contributes to the development and maintenance of a family justice system that tailors decisions to the individual needs of families, including children experiencing separation or divorce. The Department develops and implements policy and program initiatives and family law reforms in consultation with the provinces and territories. Specifically, the Department provides analysis, advice and litigation support in areas of marriage, divorce (including custody and access and child and spousal support), as well as enforcement of support and custody and access. The Department is also actively involved in two horizontal initiatives: the Family Violence Initiative (FVI) and the Federal Elder Abuse Initiative (FEAI).

Furthermore, the Department administers Family Law Assistance Services, which operates the Central Registry of Divorce Proceedings and supports the provincial and territorial Maintenance Enforcement Programs in ensuring that funds are provided to those who are owed support. For additional information on family justice, please consult the following Website: http://canada.justice.gc.ca/eng/pi/index.html.

Expected Outcome: Increased compliance by parents with the terms and conditions of family law support and access orders	
Performance Indicators	**Performance Highlights**
Trends in compliance with terms and conditions contained in family law orders	• The compliance rate with terms and conditions of family law orders in 2008–09 varied from 55% to 77% depending on the province or territory. • The Family Law Assistance Service (FLAS) intercepted $140.9 million in 2008–09 and provided these funds to Canadian families in need. This is a 17% ($21 million) increase in the amount of money intercepted over 2007–08.

Access to Justice

The Department promotes access to the justice system by working with provinces and territories, non-governmental and community-based organizations to develop and implement policies and laws that enhance access to justice, including access to justice in both official languages, while respecting the diverse nature and needs of all Canadians. The Department also works with other federal partners to promote access to justice and the rule of law internationally. Over the planning period, the Department focused its efforts in three core areas – legal aid, Special Advocates Program (SAP), and international technical legal assistance. For additional information on access to justice, please consult the following Web site: http://canada.justice.gc.ca/eng/pi/index.html.

Legal Aid

The Department provides ongoing funding to the provinces for criminal legal aid in support of the Department's policy objective of helping economically disadvantaged adults facing serious or complex criminal charges and youths charged under the *Youth Criminal Justice Act* to receive legal aid services. In addition, resources are provided for immigration and refugee legal aid. Over the reporting period, the Department focused on implementing new legal aid agreements and continued to work in collaboration with jurisdictions to develop a sustainable legal aid strategy. For more information on Legal Aid please refer to the following Web site: http://www.justice.gc.ca/eng/pi/pb-dgp/arr-ente/lap-paj.html.

Expected Outcome: Provinces are assisted to deliver criminal and immigration and refugee legal aid to eligible persons	
Performance Indicators	**Performance Highlights**[15]
Federal contributions for criminal legal aid as a percentage of eligible provincial expenditures on legal aid	• The federal contribution for provincial criminal legal aid as a percentage of eligible provincial expenditures on legal aid was 30% nationally (provinces only) in 2008–09.
Number of applications for criminal legal aid and percentage rejected on the basis of eligibility	• The number of applications for criminal legal aid in 2008–09 was 325,611 and the percentage rejected on the basis of eligibility was 18% nationally (provinces only).
Federal contributions for immigration and refugee legal aid as a percentage of allowable provincial immigration and refugee legal aid expenditures.	• The federal government contribution for immigration and refugee legal aid as a percentage of allowable provincial immigration and refugee legal aid expenditures was 38% nationally (provinces only).

[15] Data regarding the provincial legal aid program is only available at the end of the calendar year for the previous fiscal year. As a result, estimates using previous year's data were developed.

Special Advocates Program

In February 2008 the Supreme Court of Canada determined that the security certificate provisions in the *Immigration and Refugee Protection Act* were unconstitutional because the process violated the rights of persons named in a security certificate to a fair hearing. The Special Advocates Program was therefore developed to address this issue in a fair and balanced way. The Program provides specially trained lawyers to represent the named person's interests by preventing the disclosure of confidential information and by ensuring the right to a fair hearing. For more information on the Program please consult the following Web site: http://www.justice.gc.ca/eng/dept-min/sa-as/.

Expected Outcome: Improved protection of rights for individuals subject to the *Immigration and Refugee Protection Act* when classified information is to be relied upon	
Performance Indicators	**Performance Highlights**
Number of persons on the program roster	• Currently 25 legal counsel are eligible to be appointed as special advocates (see http://canada.justice.gc.ca/eng/dept-min/sa-as/list-liste.html).
Number of contribution agreements	• 82 contribution agreements were established for both professional development and case-related components.
Number of professional development sessions.	• Two professional development sessions and two consultations sessions delivered to members of the program roster to improve their knowledge base.
Number of hours billed by special advocates	• Approximately 6,000 hours were billed by special advocates in the fiscal year 2008–09.
Turnover rates for special advocates	• No special advocates have resigned or had their appointments rescinded.

International Technical Legal Assistance

The Department provides significant support for Canada's international and foreign policy objectives through the development and implementation of international technical legal assistance projects. Over the reporting period, the Department collaborated with federal partners to promote foundational Canadian values of freedom, democracy, human rights and the rule of law in transitional and fragile foreign countries. For more information on international technical legal assistance please consult the following Web site: http://www.justice.gc.ca/eng/pi/icg-gci/ta-at.html

Expected Outcome: Transitional and fragile foreign countries receive technical legal assistance needed to build, reform and strengthen their legal systems	
Performance Indicators	**Performance Highlights**
Number of countries with which the Department shares technical knowledge and expertise	• Over the reporting period, the International Legal Programs Section (ILPS) provided technical legal assistance and/or developed initiatives for the provision of such assistance to Ukraine, Jamaica and the Palestinian Authority. http://www.justice.gc.ca/eng/pi/pb-dgp/arr-ente/lap-paj.html
Nature of technical knowledge and expertise shared	• Consultations with Ukraine on project related to differential impacts of corrupt practices on men and women. • Negotiations with Jamaica to develop a program to strengthen the effectiveness of the Jamaican justice system. • Consultations with Palestinian Authorities to develop a comprehensive technical legal assistance project.

Aboriginal Justice

It has been widely documented that Aboriginal persons continue to be over-represented in the Canadian criminal justice system, both as victims and accused. To respond to this overrepresentation, the Department has taken specific measures to enable Aboriginal communities to have increased involvement in the local administration of justice and to provide timely and effective alternatives to mainstream justice processes in appropriate circumstances.[16] Furthermore, the Aboriginal Courtwork Program (ACW)[17] ensures that Aboriginal persons in contact with the criminal justice system receive fair, equitable and culturally sensitive treatment.

Expected Outcome: Increased involvement of Aboriginal communities in the local administration of Justice	
Performance Indicators	**Performance Highlights**
Number of communities with Aboriginal Justice Strategy (AJS) projects	• 104 AJS community-based programs served nearly 400 communities in all provinces and territories in 2008–09.
Number of communities undertaking capacity building and training to support the administration of justice	• Provided funding for 22 capacity-building projects in 2008–09 to support Aboriginal communities' involvement in the local administration of justice.
Number of clients served by Aboriginal justice programs (year over year data)	• Developed a framework for national data collection on the number of clients and types of programs/projects/services in which the clients may be engaged. This data is expected to be available in 2011–12.
Expected Outcome: Reduced recidivism rates among AJS participants	
Performance Indicators	**Performance Highlights**
Rate of Aboriginal recidivism for AJS participants	• A 2006 evaluation study of recidivism demonstrated that offenders who enrolled and completed the AJS programs were approximately half as likely to re-offend as those who did not enrol or did not complete the programs.
Expected Outcome: Aboriginal people charged with an offence have access to culturally sensitive services	
Performance Indicators	**Performance Highlights**
Number of Aboriginal persons charged with an offence who received culturally sensitive services from an Aboriginal courtworker	• Over 200 Aboriginal courtworkers employed by 20 different service delivery agencies across Canada provided services to 48,761 adults and 10,048 youth. • The 2008 summative evaluation concluded that Aboriginal clients are satisfied with the ACW program and the outcome of court proceedings. For more information, please consult: http://www.justice.gc.ca/eng/pi/eval/rep-rap/08/acw-papa/index.html

[16] For additional information on the AJS, please consult: http://canada.justice.gc.ca/eng/pi/ajs-sja/index.html

[17] For additional information on the ACW, please consult: http://canada.justice.gc.ca/eng/pi/pb-dgp/arr-ente/acp-apa.html

Program Activity A2: Office of the Federal Ombudsman for Victims of Crime

2008–09 Financial Resources ($ millions)			2008–09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
1.5	1.6	1.4	6	10	4

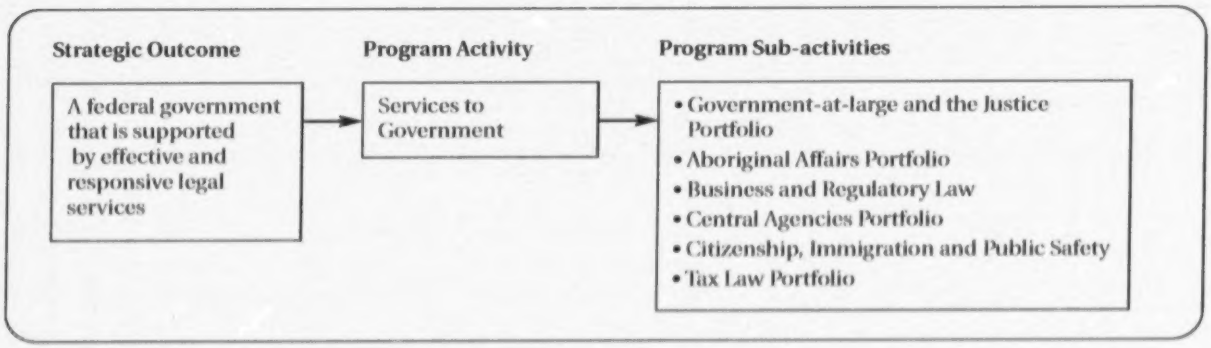
The Office of the Federal Ombudsman for Victims of Crime was established in 2007. The Ombudsman operates at arm's length from the Department of Justice, reporting directly to the Minister of Justice[18] and is therefore outside the Department's governance framework.

The mandate of the Federal Ombudsman for Victims of Crime relates exclusively to matters of federal responsibility and includes:

- facilitating victims' access to existing federal programs and services;
- addressing victims' complaints about compliance with the provisions of the *Corrections and Conditional Release Act*;
- enhancing awareness among criminal justice personnel and policy makers of victims' needs and concerns; and
- identifying emerging issues and exploring systemic issues that impact negatively on victims of crime.

[18] The Federal Ombudsman tables reports to Parliament through the Minister of Justice. The Department of Justice provides corporate services to the Office. For further information regarding the Office of the Federal Ombudsman for Victims of Crime, please consult http://www.victimsfirst.gc.ca.

Strategic Outcome II: A federal government that is supported by effective and responsive legal services


Strategic Outcome
A federal government that is supported by effective and responsive legal services
Program Activity
Services to Government
Program Sub-activities
• Government-at-large and the Justice Portfolio
• Aboriginal Affairs Portfolio
• Business and Regulatory Law
• Central Agencies Portfolio
• Citizenship, Immigration and Public Safety
• Tax Law Portfolio

Program Activity B1: Services to Government

2008–09 Financial Resources ($ millions)			2008–09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
471.6	323.8	312.1	3,904	4,052	148

The Department provides an integrated suite of common legal advisory, litigation, legislative and regulatory drafting services to government through:

- a network of 42 departmental legal services units (DLSUs) and 4 departmental regulations sections, which are co-located with client departments and agencies and organized into five portfolios (Aboriginal Affairs, Business and Regulatory Law, Central Agencies, Citizenship, Immigration and Public Safety, and Tax Law Services);
- specialized legal expertise within national headquarters, including the Litigation Branch, the Legislative Services Branch, and the Public Law Sector, which are organized into the Justice Portfolio; and
- a network of regional offices and sub-offices providing local level services to federal departments and agencies in the North, British Columbia, the Prairies, Ontario, Quebec, and the Atlantic provinces.

Performance Analysis

Expected Results: Comprehensive delivery of the Government's legislative agenda	
Performance Indicators	**Performance Highlights**
Levels of effort dedicated to legislative files	• 273,860 hours devoted to drafting of legislation and regulations.
Number of bills tabled in Parliament	• 48 bills tabled in Parliament.
Number of regulations published in the *Canada Gazette*	• 41 regulations published in Part I of the *Canada Gazette*. • 448 regulations published in Part II of the *Canada Gazette*.
Number of motions to amend for private members bills the Department was responsible for	• 108 motions to amend in respect of 12 private members bills tabled in the House involved the Department.

Performance Summary

- Levels of effort devoted to drafting legislation and regulations increased from 253,424 hours in 2007–08 to 273,860 hours in 2008–09 (a 8% increase).
- Number of bills tabled in Parliament declined by 24% (from 63 in 2007–08).
- Number of regulations published in the Gazette increased by 20% (from 399 in 2007–08).
- Number of private members bills tabled in the House increased by 17%.
- Government responses to 30 private members bills were prepared in 2008–09.

Expected Results: Legal advisory services to support the Government in attaining its priorities	
Performance Indicators	**Performance Highlights**
Levels of effort dedicated to advisory files	• 1,311,019 hours devoted to providing legal advisory services to 42 client departments and agencies.

Performance Summary

- The Department provided legal policy advice to government on a broad range of files to support client departments in implementing Government priorities identified in the Speech From the Throne (see also Detailed Performance Analysis by Portfolio).

Expected Results: Representing the Crown's interest to enable government to attain its priorities	
Performance Indicators	**Performance Highlights**
Levels of effort dedicated to litigation files	• 1,556,585 hours devoted to managing 36,690 litigation files on behalf of the Government of Canada.
Trends in levels of assessed risk of the litigation inventory[19]	• 3% of active litigation inventory assessed as high risk. These files accounted for 27% of the total level of effort devoted to managing litigation files. • 30% of active litigation inventory assessed as moderate risk. These files accounted for 39% of the total level of effort devoted to managing litigation files. • 67% of active litigation inventory assessed as low risk. These files accounted for 34% of the total level of effort devoted to managing litigation files.
Trends in use of alternative dispute resolution to resolve disputes	• 8,509 litigation files adjudicated (64%). • 3,307 litigation files settled (25%).
Trends in the Crown results for litigation files – final litigation outcome indicators	• 5,061 of adjudicated files initiated against the Crown were disallowed (70%). • 1,160 of the adjudicated files initiated by the Crown were allowed (93%).

Performance Summary

- The Department represented the Crown's interests in a broad array of litigation involving significant potential liabilities valued in the billions of dollars.
- The Supreme Court of Canada rendered 70 judgments on appeal for the 2008–2009 fiscal year. Over the last year, Department of Justice counsel represented the Government in 19 of these cases.
- Litigation risk has a significant impact on resources, as demonstrated by the fact that high-risk files, which accounted for only 3% of the litigation files, accounted for 27% of the total level of effort devoted to managing active litigation files across the country.

Benefits for Canadians

The Department of Justice Canada supports the Attorney General as the chief law officer of the Crown both in terms of the ongoing operations of government as well as the development of new policies, programs and services for Canadians to support the Government's priorities.

The Department provides legal advice to the Government and all federal government departments and agencies, represents the Crown in civil litigation and before administrative tribunals, drafts legislation, and responds to the other legal needs of federal departments and agencies. These activities directly and indirectly support the federal government by preparing legal instruments to enact new and ongoing programs and services to Canadians; ensuring that decision makers are able to factor the legal implications into their chosen courses of action in delivering policies, programs and services to Canadians; and defending the Crown's ability to continue to provide programs, services and benefits to Canadians in the face of court challenges.

[19] A number of litigation files do not have a risk level and are either labelled "unable to asses" or "have not yet been evaluated." Figures exclude these files.

Lessons Learned

Law Practice Management

The Office of the Auditor General (OAG) recommended that the Department of Justice should further strengthen its management framework for the delivery of quality legal services. The Department continued to make significant progress in this area by establishing a departmental Action Plan that ensures all areas identified in the OAG's report are addressed. The Action Plan has been provided to the Parliamentary Standing Committee on Public Accounts.

A formative evaluation of Legal Risk Management (LRM) concluded there was a need for a consistent, flexible and integrated approach to LRM across the Department. In response, the LRM group, part of the Law Practice Management Directorate, established an Action Plan to implement the recommendations from the evaluation. The Action Plan included the establishment of an LRM Network and working groups to develop an approach and recommendations on key issues.

Communication of Legal Risks

The Department works with clients to identify legal risks and ensure a high level of understanding of legal risks that can affect policy, program, and service delivery within client departments and agencies.[20] From the Client Feedback Survey, the Department has learned that while 88% of respondents consider their understanding of key legal risks facing their department to be "fair" to "very good", the remaining 12% rated their understanding as "poor" or were unable to assess. This points to the need for ongoing communication of legal risks. The Department will continue to work with client departments to help them understand the key legal risks that may affect their policies, programs and service development initiatives.

Comprehensive Delivery of the Government's Legislative Agenda

The rapid deterioration in the global economy and the need to redirect resources and efforts to support the development of initiatives to address the impacts of the global recession in Canada reinforced the importance of close partnerships and communication with client departments. The ability to react nimbly to the changing environment and thus redirect efforts and resources was in part made possible through joint planning and priority setting with clients.

The implementation of the new *Cabinet Directive on Streamlining Regulations and the Paper Burden Reduction Initiative (PBRI)* has helped reduce the regulatory activity of the Government by limiting the development of new regulatory proposals to those demonstrated to be essential to the economic, environmental, health or security goals of the country.

[20] For additional information, please consult http://Canada.justice.gc.ca/eng/dept-min/pub/dpr-rr/index.html.

Detailed Performance Analysis By Portfolio

Aboriginal Affairs Portfolio

The Aboriginal Affairs Portfolio provides expert legal services and legal policy advice to the Crown and to client departments, notably Indian and Northern Affairs Canada (INAC), on a broad range of Aboriginal law issues that affect government as a whole, including: Aboriginal rights and title, duty to consult, treaty rights, the fiduciary relationship of the Crown with Aboriginal peoples, constitutional and Charter issues relating to Aboriginal law, and more broadly the role of the law in support of the honour of the Crown and reconciliation between the Crown and Aboriginal Canadians.

Aboriginal Affairs Portfolio Performance Highlights

- Partnered with INAC on implementing the *Specific Claims Tribunal Act* and the Government's Action Plan to accelerate the process for achieving settlement of specific claims:
  - completed 147 legal assessments,
  - supported 128 specific claims settlement negotiation processes, and
  - reached settlement on 14 claims for a total of value of $185M.
- Provided dedicated legal services for the administration and implementation of the Indian Residential Schools Settlement Agreement, the largest class-action settlement in Canadian history. The agreement consists of four main components: Common Experience Payments, Independent Assessment Process for claims of sexual or serious physical abuse, healing and commemoration programs and a Truth and Reconciliation Commission.
- Further to the 2008 FPT Ministerial *Declaration on Aboriginal Justice*, helped establish and lead a federal-provincial-territorial Working Group on Aboriginal Justice to examine the high rates of violence and victimization in Aboriginal communities and made recommendations for program reform.
- Provided policy advice with respect to the $40 million enhancement for the Aboriginal Justice Strategy, in order to expand the program to under-serviced areas.
- Developed guidelines for the negotiation of administration of justice arrangements with self-governing Aboriginal groups.
- Supported INAC to implement the Northern Strategy and manage ongoing federal interests in the North, including oil and gas development projects such as the Mackenzie Gas Project.
- Advised INAC with respect to ongoing environmental assessment and regulatory processes regarding the Giant Mine Remediation Project, involving the clean-up of 237,000 tonnes of arsenic trioxide dust stored underground at an abandoned gold mine.
- Provided expert legal support for the implementation of the Tsawwassen Final Agreement, (the first treaty reached under the BC Treaty Process and the first urban treaty in Canada).
- Provided legal support to the Office of the Federal Interlocutor in efforts to improve the socioeconomic conditions of Métis, non-status Indians, and urban Aboriginal people.

Business and Regulatory Law Portfolio

Business and Regulatory Law (BRL) Portfolio counsel and paralegals are responsible for providing legal advice, managing legal risk, and conducting and supporting cases in court brought by or against the Crown. The BRL Portfolio also assists in the development of regulations and legislation for departments and agencies whose mandates share a regulatory or business focus. The Portfolio is involved in issues such as environmental protection, transportation regulatory matters, fisheries management and health protection, intellectual property, energy projects, cultural protection, and international development, among others.

Business and Regulatory Law Portfolio Performance Highlights

- Industry Canada Legal Services (ICLS) provided specialized legal advice in the successful negotiations of the Canadian government financial assistance to General Motors and to Chrysler.
- As part of the new $4 billion Infrastructure Stimulus Fund, negotiated and developed intergovernmental framework agreements.
- Environment Canada Legal Services (ECLS) provided legal advice regarding the Minister of the Environment enforcement provisions regarding measures to reduce greenhouse gas emissions.
- ECLS also provided support in all aspects of the development of Bill C-16, the *Environmental Enforcement Act*.
- Successfully negotiated a $45 million contract for the reconstruction of the Dahla Dam in Afghanistan, which addressed a recommendation of the Independent Panel on Canada's Future Role in Afghanistan.
- Provided legal advice on the Advance Market Commitment, a public-private partnership that includes Canada, the Gates Foundation, the World Bank and seven donor countries to fund the development of vaccines to combat pneumococcal disease in the developing world.
- Assisted Human Resources and Skills Development Canada in: successfully negotiating eight federal-provincial Labour Market Agreements to make labour market training more comprehensive and to complete the transfer of Employee Insurance Benefits to five provinces and territories.
- Provided advice and leadership to a federal working group (Transport Canada, Fisheries and Oceans, Environment Canada, Indian and Northern Affairs Canada and the Canadian Environmental Assessment Agency) regarding the legal implications of policy changes necessary to streamline the effectiveness and timeliness of major natural resources projects.

Central Agencies Portfolio

The Central Agencies Portfolio serves the Department of Finance, the Treasury Board of Canada Secretariat, the Canada Public Service Agency, the Canada School of Public Service, the Public Service Commission, the Office of the Superintendent of Financial Institutions, the Financial Transactions and Reports Analysis Centre of Canada, and the Financial Consumer Agency of Canada. The Portfolio provides integrated legal advisory, non-criminal litigation and drafting services on fiscal, economic, and tax issues, federal-provincial fiscal arrangements, financial services, social affairs, accountability, machinery of government, comptrollership, human resources management, labour and employment law, financial sector practices, financial institutions, banking, money laundering, terrorist financing, and Crown law issues.

Central Agencies Portfolio Performance Highlights

- Participated in preparations for the 2008 Economic Update, Budget 2009, and coordinated the *Budget Implementation Act*, which included significant new legal authorities to enable the Government to protect the stability of the Canadian financial and economic system.
- Launched preparations for a Canadian securities regulatory authority and established the framework to create a National Securities Transition Office in response to Budget 2009.
- As part of Canada's Economic Action Plan, assisted in the creation of a federal Public-Private Partnership (P3) Office, to promote the use of public-private partnerships.
- Participated in a range of legislative, regulatory and transactional initiatives in respect of financial institutions, pension plans, the financial sector, financial literacy, consumer protection with respect to financial products, and terrorist financing.
- Enhanced Justice litigation risk management by implementing newly designed tools that provide counsel and managers with accessible and timely information on litigation of interest.

Citizenship, Immigration and Public Safety Portfolio

The Citizenship, Immigration and Public Safety Portfolio[21] provided strategic legal services in the areas of security and immigration. The Portfolio directly supported the following clients: Citizenship and Immigration Canada, Public Safety Canada, the Canada Border Services Agency, the Canadian Security Intelligence Service, the Royal Canadian Mounted Police, the Correctional Service of Canada, and the National Parole Board. In addition, the Portfolio managed the Department of Justice's Crimes Against Humanity and War Crimes Program.

Citizenship, Immigration and Public Safety Portfolio Performance Highlights

- Provided advice in the establishment and coordination of security measures for the 2010 Vancouver Olympic and Paralympics Winter Games.
- Provided advice and coordinated the implementation of the new legislative scheme, for the participation of special advocates in Security Certificate hearings.
- Advised and supported the RCMP in addressing the recommendations of the *Task Force on Governance and Cultural Change in the RCMP* relating to structural changes and civilian oversight, pension portability, recruitment processes, and the modernization of the Public Complaints Commission.
- Advised on case presentation on behalf of the Government before *The Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182.*
- Provided advice on policy and communication actions related to personnel training and information sharing following the *Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Amad Abou El-Maati and Muayyed Nureddin* and the *Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar.*
- Advised Citizenship and Immigration in relation to the *Action Plan for Faster Immigration* and other initiatives aimed at reducing the backlog of permanent residence applications.
- Supported Public Safety and Emergency Preparedness in the development of legislative reforms of the corrections and national parole systems aimed at enhancing inmate responsibility and accountability, making rehabilitation more effective, and increasing information shared with victims.
- Provided advice and support to the ongoing development of a new National Security Statement, designed to ensure that Canada is prepared to respond to current and future threats that are beyond the capacity of communities or provinces to address alone.
- Supported CBSA in developing new legislation to strengthen border security by expanding customs officers' powers to search individuals and goods in customs-controlled areas and obtaining advance data on individuals and goods arriving in Canada (Bill S-2, *An Act to Amend the Customs Act*).
- Provided advice to CBSA in relation to the arming of border guards.

[21] The Citizenship, Immigration and Public Safety Portfolio provided strategic legal services in the areas of security and immigration. The Portfolio directly supported the following clients: Citizenship and Immigration Canada, Public Safety Canada, the Canada Border Services Agency, the Canadian Security Intelligence Service, the Royal Canadian Mounted Police, the Correctional Service of Canada, and the National Parole Board. In addition, the Portfolio managed the Department of Justice's Crimes Against Humanity and War Crimes Program.

Tax Law Services Portfolio

The Tax Law Portfolio is responsible for providing a full range of legal services to the Canada Revenue Agency (CRA), including legal advice, litigation services, training, drafting services, as well as legal issues coordination and risk management. The Portfolio represents the Crown in all tax matters, including tax assessment and EI/CPP appeals to the courts, collection matters, civil law suits and class actions. The Portfolio gives legal advice to the CRA on corporate issues and income tax, commodity tax and benefit programs. The Portfolio also works in close collaboration with the CRA as it administers, reviews and develops amendments to fiscal legislation.

Tax Law Services Portfolio Performance Highlights

- Provided legal services to the CRA in many high profile and complex matters, including transfer pricing, tax shelters, charities, residency, international tax avoidance, collections securitization and negotiations, the Minister's debt collection powers, GST/HST challenges, excise duty compliance measures, the confidentiality of taxpayer information, and criminal tax issues.
- Helped to provide efficiencies and improve the competitiveness of Ontario businesses with key legal support for the transfer of the administration of Ontario corporate income tax from the Ontario Ministry of Revenue to the CRA, and the transition to a single administration of Ontario corporate income tax.
- Protected the integrity of the charitable sector and donors by assisting the CRA in revoking or suspending registration of dozens of charities engaged in misuse of their charitable status.
- Assisted in fulfilling key government commitments through legal advice for the administration of the Tax-Free Savings Account introduced in the 2008 Budget.
- Protected Canada's tax base through legal support for the CRA's Aggressive International Tax Initiative, and by responding to an increased volume of resource intensive, complex and high profile tax audit work.
- Enhanced trust in Canada's tax administration through legal support for the development of the CRA *Taxpayer Bill of Rights*, and the establishment of the Taxpayers' Ombudsman.
- Helped to improve benefit program client service by supporting several new CRA electronic client service initiatives.

Justice Portfolio

The Department also provides legal services through the Justice Portfolio to the Minister of Justice and Attorney General of Canada as well as in situations where the interests affect the government at large (i.e. where the issues are broader than one portfolio).

The Justice Portfolio consists of three specialized groups within the Department: the Public Law Sector; the Litigation Branch; and the Legislative Services Branch. The Portfolio provides specialized legal advisory, litigation and legislative services to all government departments and agencies both directly and indirectly, by supporting the five other operational portfolios.

As well, the Department's involvement in the Public Security and Anti-Terrorism initiative is funded from this Portfolio, and includes legislative support and policy development, legal advice and assistance, as well as prosecutions and civil litigation[22]. This also includes new responsibility for the Attorney General – the protection of sensitive federal government information.

The portfolio also carries out the functions assigned to the Minister of Justice as the central authority for Canada under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act* by providing assistance to Canadian and foreign authorities to gather evidence for criminal cases or to obtain the extradition of fugitives from justice. Mutual assistance and extradition are important tools in the suppression of crime for the protection of Canadians and global community.

Justice Portfolio Performance Highlights

- Provided on-going support to the Minister of State for Democratic Reform and to the Privy Council Office with respect to the government's commitments on democratic reform, including the proposals for legislation on limiting the tenure of Senators, on providing a new consultation procedure for selecting Senators, and on realignment of seats in the House of Commons to accommodate faster growing provinces.
- Defended Canada's interest in several international trade litigation cases before the World Trade Organization and under the North American Free Trade Agreement. In addition, the Portfolio also supported the completion of negotiations for Free Trade Agreements and for Foreign Investment Protection and Promotion Agreements.
- Assisted in developing for tabling in Parliament *An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments)* which brings a series of modifications to the language provisions of the *Criminal Code*.

[22] This special initiative includes the active involvement of departmental staff from across a number of organizational units. Oversight and integration of the Department's activities in support of this horizontal, government initiative have been delegated to the ADAG, Citizenship, Immigration and Public Safety Portfolio who is supported by an Advisory Steering Committee.

Highlights of Significant Litigation Files 2008–2009

The following is by no means an exhaustive listing of major litigation files, but does provide the reader with a sense of the range and types of issues and challenges before the courts with respect to which the Department represents the Crown's interests.

CSN/Arvida v. Attorney General of Canada – The Supreme Court of Canada confirmed the broad scope of the unemployment insurance power conferred on the Parliament of Canada by s. 91(2A) of the *Constitution Act, 1867*). The Court held that the active measures programs found in the Employment Insurance Act are constitutionally valid since they reflect changes in the economy and the labour market and are part of the "natural evolution" of the unemployment insurance power conferred on Parliament. This case has significant implications for the government's ability to maintain programs helping Canadians prepare to re-enter the labour market or allowing them to stay in it.

Lake v. Minister of Justice – The Supreme Court of Canada determined that the Minister of Justice has a broad discretion under the *Extradition Act* in deciding whether to surrender a fugitive to a foreign government. The decision is important in that it will assist the government in meeting its extradition treaty obligations to other nations.

Canadian Council for Refugees et al. v. Canada (Safe Third Country Agreement) – The Supreme Court of Canada dismissed the application for leave to appeal, thus affirming the validity of the Government's *Safe Third Country Agreement* with the United States which governs the management of the flow of refugees into Canada.

Canada (MCI) v. Khosa – The Supreme Court of Canada allowed the appeal of the Minister of Citizenship and Immigration and restored the decision to deport Mr. Khosa, a permanent resident of Canada. While street-racing, Mr. Khosa caused the death of a pedestrian and was later convicted. This case is significant because the Supreme Court confirmed that the general rules applied by courts to review government administrative decisions are also to be applied by the Federal Court.

Charkaoui v. Canada (Citizenship and Immigration) – The SCC provided important guidance regarding the *CSIS Act*, the obligations on CSIS to retain operational records, and requirements for the government of Canada to provide disclosure in the context of security certificates under the *Immigration and Refugee Protection Act*.

Désiré Munyaneza – This was the first prosecution under the *Crimes Against Humanity and War Crimes Act* in Canada, which resulted in the conviction of Désiré Munyaneza for his role in the 1994 Rwandan genocide.

Amnesty International Canada et al. v. Chief of the Defence Staff for the Canadian Forces et al. – The Federal Court of Appeal sustained the transfer of individuals detained by Canadian Forces in Afghanistan to local authorities in the face of allegations that such transfers led to torture and were consequently unlawful under international law and infringed rights protected by section 7 of the *Canadian Charter of Rights and Freedoms* (right to life, liberty and security of the person). A loss would have had implications for Canada's mission in Afghanistan.

Lipson v. The Queen – The Supreme Court of Canada dismissed the appeal and affirmed the application of the general anti-avoidance rule (GAAR) in the *Income Tax Act* to deny an interest deduction on a loan that was used indirectly to fund the purchase of a personal residence. The case had significant implications for the Canadian tax system with regard to the application of the GAAR to address abusive tax avoidance.

Redeemer Foundation v. Canada (National Revenue) – The Supreme Court of Canada dismissed the appeal, finding that the Minister of National Revenue had the authority to obtain information from a registered charity about its donors, without prior judicial authorization. This landmark decision confirms the broad scope of the Minister's audit powers.

eBay Canada Ltd. et al. v. Minister of National Revenue – The Federal Court of Appeal dismissed the appeal, holding that eBay Canada must provide the names of its high-volume sellers to the Minister even though the information was stored on servers located outside Canada. This case had significant implications for Canada's ability to administer and enforce the *Income Tax Act* in relation to e-Commerce.

Section III – Supplementary Information

Financial Highlights

The financial highlights presented within this DPR are intended to serve as a general overview of DoJ's financial positions and operations. The Department's financial statements are available on the DoJ web site at:
http://canada.justice.gc.ca/eng/dept-min/pub/dpr-rr/index.html

($ thousands)

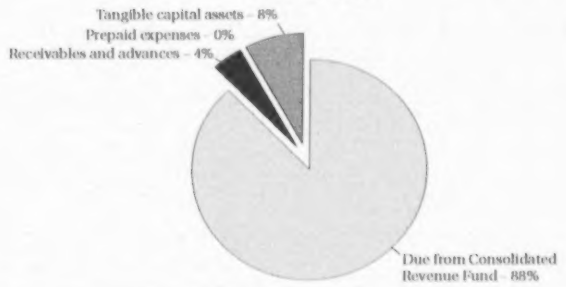
Condensed Statement of Financial Position As at March 31			
	% Change	**2009**	**2008**
ASSETS			
Total Assets	-44%	454,622	806,721
TOTAL	-44%	454,622	806,721
LIABILITIES			
Total Liabilities	-38%	546,359	875,848
EQUITY			
Total Equity	33%	(91,737)	(69,127)
TOTAL	-44%	454,622	806,721

($ thousands)

Condensed Statement of Financial Position At End of Year (March 31, 2009)			
	% Change	**2009**	**2008**
EXPENSES			
Total Expenses	7%	1,008,278	945,510
REVENUES			
Total Revenues	9%	242,345	222,494
NET COST OF OPERATIONS	6%	765,933	723,016

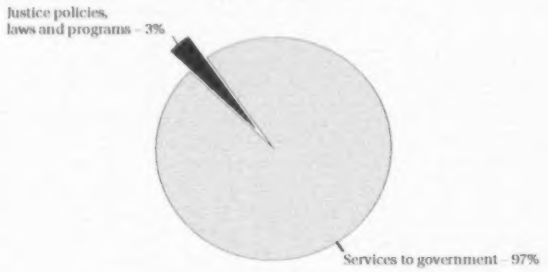
Total assets were approximately $455 million at the end of 2008–09, a 44% decrease over the previous year's total. Due from the Consolidated Revenue Fund comprised of 88% of total assets at approximately $398 million. Tangible capital assets represented approximately $37 million (8%) while receivables and advances represented approximately 4% of total assets.

Assets by Type



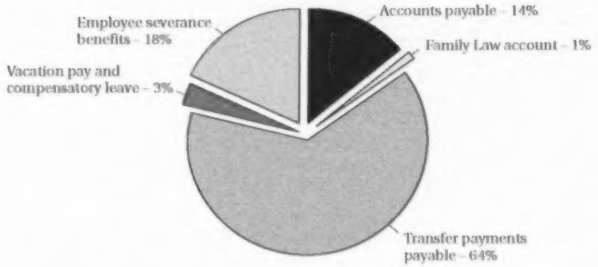
The Department's total revenues amounted to approximately $242 million for 2008–09; a 9% increase from 2007–08. Ninety seven percent of DoJ's revenue was derived from Services to government while the remaining 3% were derived from Justice Policies, laws and programs.

Revenues by Program Activity



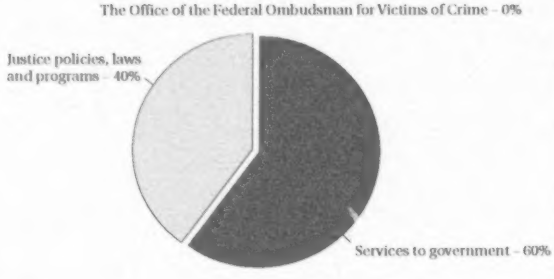
Total liabilities were $546 million at the end of 2008–09, a 38% decrease from the previous year's total. Transfer payment payable represents the largest portion of liabilities at $351 million or 64% of total liabilities.

Liabilities by Type


Accounts payable – 14%
Family Law account – 1%
Employee severance benefits – 18%
Vacation pay and compensatory leave – 3%
Transfer payments payable – 64%

Total expenses for DoJ were $1,008 million in 2008–09. Sixty percent of funds were spent on Services to government while Justice policies, laws and programs represented 40% of total expenses.

Expenses by Program Activity


The Office of the Federal Ombudsman for Victims of Crime – 0%
Justice policies, laws and programs – 40%
Services to government – 60%

List of Supplementary Information Tables

All electronic supplementary information tables found in the 2008–09 Departmental Performance Report can be found on the Treasury Board of Canada Secretariat's Web site at: http://www.tbs-sct.gc.ca/dpr-rmr/2008–09/index-eng.asp.

Table 1: Sources of Respendable and Non-Respendable Revenue

Table 2: User Fees/External Fees

Table 3: Details on Transfer Payment Programs (TPPs)

Table 4: Horizontal Initiatives

Table 5: Sustainable Development Strategy

Table 6: Green Procurement

Table 7: Response to Parliamentary Committees and External Audits

Table 8: Internal Audits and Evaluations

Other Items of Interest

The following information is available on the Department of Justice Web site:

Canada's System of Justice: http://canada.justice.gc.ca/eng/dept-min/pub/just/

Canada's Consolidated Statutes and Regulations: http://laws.justice.gc.ca/en/index.html

Department of Justice Organizational Chart: http://canada.justice.gc.ca/eng/dept-min/chart.html

Department of Justice Programs and Initiatives: http://canada.justice.gc.ca/eng/pi/index.html

Key Publications: http://canada.justice.gc.ca/eng/dept-min/pub/index.asp

Careers at Justice: http://canada.justice.gc.ca/eng/dept-min/recru/index.html

Contact Information

Public Inquiries:
Communications Branch
Telephone: 613-957-4222
TDD/TTY: 613-992-4556
Fax: 613-954-0811

Media Inquiries:
Communications Branch
Telephone: 613-957-4207
Fax: 613-954-0811